



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 4779-99

15 October 1999

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED],
[REDACTED]

Ref: (a) 10 U.S.C.1552

Encl: (1) DD Form 149
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy, applied to this Board requesting, in effect, that his naval record be corrected to show a more favorable type of characterization than under honorable conditions shown on the DD Form 214 issued on 28 March 1975.

2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED] and Ms. [REDACTED], reviewed Petitioner's allegations of error and injustice on 14 October 1999, and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that Petitioner's application to the Board was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Marine Corps on 30 March 1973 for two years as a PFC (E-3). The record reflects that he

was advanced to CPL (E-4) and served for nearly 20 months without incident. However, during the three month period from November 1974 to February 1975 he received three nonjudicial punishments (NJP). His offenses consisted of two instances of disrespect, two instances of failure to obey a lawful order, and dereliction in the performance of his duties. Thereafter, he continued to serve without further incident until 28 March 1975 when he was released from active duty by reason of "convenience of the government-early separation under an authorized program or circumstance" and transferred to the Marine Corps Reserve. The date entered on active duty shown in block 15 of his DD Form 214 is erroneous and should read 30 March 1973 vice 29 March 1973. The record further reflects that Petitioner was discharged from the Marine Corps Reserve on 2 August 1978. The type of discharge that was issued, if any, is not shown in the record.

d. The Board denied Petitioner's requests for a change in his RE-4 reenlistment code on 29 January 1984 and 5 June 1985.

e. Character of service is based, in part, on conduct and proficiency averages which are computed from marks assigned during periodic evaluations. The final average marks shown in Petitioner's record appear to be based on only three marking periods rather than the 12 periods shown on the Record of Service (page 3). After a recomputation of the marks, his averages on conduct and proficiency were 4.0 and 4.1, respectfully. The minimum average marks required for a fully honorable characterization at the time of his release from active were 4.0 in conduct and 3.8 in proficiency.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board notes that after a recomputation of conduct and proficiency marks, Petitioner's release from active duty should have been characterized as honorable vice under honorable conditions. Therefore, it appears his discharge from the Marine Corps Reserve should also be honorable. The Board thus concludes that it would be appropriate and just to recharacterize his service to fully honorable. Since Petitioner received three NJPs within six months of his release from active duty, the Board concludes Petitioner's reenlistment code remains appropriate and should not be changed.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was honorably released from active duty on 28 March 1975 vice under honorable conditions as shown on that date. This should include the issuance of a new DD Form 214.

b. That the record be further corrected to show that he was issued an honorable discharge certificate upon discharge from the Marine Corps Reserve on 2 August 1978.

c. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

d. That, upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 27 July 1999.

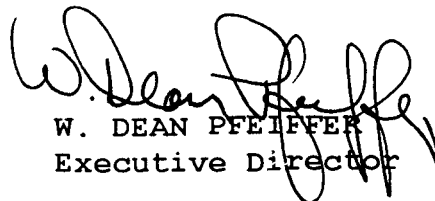
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6 (e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6 (e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director